

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
HELEN WONG-ARMIJO)	
FCR, INC.)	WT Docket No. 16-385
SKYBRIDGE SPECTRUM FOUNDATION)	
TELESAURUS HOLDINGS GB LLC)	
)	
Applications for Extension and/or Waiver of)	
Construction Deadlines		

**REPLY OF SKYBRIDGE SPECTRUM FOUNDATION AND TELESAURUS
HOLDINGS GB LLC**

Susan L. Uecker, the court-appointed receiver (the “Receiver”) for Skybridge Spectrum Foundation (“Skybridge”) and Telesaurus Holdings GB LLC (“Telesaurus”), hereby submits these reply comments in opposition to the Comments of the Wireless Internet Service Providers Association (“WISPA”); Itron, Inc.; Landis+Gyr Technology, Inc.; and Inovonics Wireless Corporation (collectively, the “Opposing Parties”), parties who oppose grant of the requested extension for Skybridge and Telesaurus, as well as for other LMS licensees.

On September 2, 2016, the Receiver requested an Extension of Time to Construct 129 Location and Monitoring Service (“LMS”) Licenses (the “Extension Request”) pursuant to Sections 1.946 and 90.155 of the Commission’s rules, 47 C.F.R. §§ 1.946(e) and 90.155(g). The Receiver seeks the Extension Requests to permit her to carry out her court-assigned duties. The request is necessitated by circumstances outside the Receiver’s control and a brief extension would be in the public interest. Due to the unique circumstances of this Receivership, the instant request differs from Skybridge’s and Telesaurus’s past requests for extensions of the LMS

licenses. The FCC has previously acknowledged that a court-appointed receiver has vital duties toward a receivership estate and has granted extensions to facilitate performance of those fiduciary duties. Here, the Receiver has acted efficiently and in good faith to place these licenses into service as rapidly as possible. She is actively seeking purchasers who can put this spectrum into service within a shorter time frame than the process of cancelling and re-auctioning the licenses would require.

For these reasons, the Opposing Parties' arguments are misplaced as to the Receiver's request, and the Commission should grant the Extension Request with regard to LMS licenses held by Skybridge and Telesaurus.

I. THE UNIQUE CIRCUMSTANCES OF THE RECEIVERSHIP MERIT AN EXTENSION OR WAIVER OF THE CONSTRUCTION REQUIREMENT.

The Commission has discretion to extend the construction deadline for an LMS license in circumstances like these, where the need for additional time is caused by circumstances outside the control of the party requesting the extension.¹ As detailed in our September 2 Request, Warren Havens' filing of a Chapter 11 bankruptcy petition for Skybridge in March 2016 – an involuntary bankruptcy petition by which he incorrectly purports to stay any actions by the Receiver with regard to these licenses – as well as other persistent actions by him, have interfered with the Receiver's court-appointed duties.² None of the Opposing Parties demonstrated that the Receiver has been anything other than dedicated and efficient in carrying out her duties, despite Havens' actions. The FCC has previously granted extensions to receivers

¹ 47 C.F.R. §1.946(e).

² See *Request for Extension of Time to Construct*, attachment to Call Signs WQGN602 and WQHU548, *et al.*, filed Sept. 2, 2016.

in such cases.³ The Receiver's request is different in kind from the previous extension requests made by Havens, and the Receiver is entitled to a "reasonable opportunity" to market the licenses for the benefit of the receivership estate so that they can be brought into service for the benefit of the public.⁴

Furthermore, the Commission has discretion to waive the construction requirement where strict application of the requirement would not serve the purposes of the rule, and the public interest would be better served by granting a waiver.⁵ Here, strictly enforcing the construction deadline against the Receiver would defeat the purposes of the rule and undermine its public interest function. Instead of allowing the Receiver a short window, now that she is authorized to sell Skybridge and Telesaurus licenses, to locate and negotiate with responsible buyers, the Opposing Parties suggest holding those licenses hostage from potential buyers even longer while the Commission goes through the process of cancelling them and re-auctioning the underlying spectrum. Strict application of the construction deadline would also do harm to the important public interest served by a court-appointed receiver – an interest that the FCC has expressed an interest in promoting.⁶

³ See *In re William Holland*, 2016 WL 1720460 at *4-5 (2016) (granting extensions of deadline for filing renewal applications and construction deadlines where the receiver appointed to liquidate an estate containing Part 90 and Part 101 licenses was prevented from carrying out his duties because of the lack of cooperation of the former owner).

⁴ *Id.* at *4.

⁵ 47 C.F.R. §1.925(a)(3)(i).

⁶ See *LaRose v. FCC*, 494 F.2d 1145, 1149 (1974) (noting a receiver's duties as an officer of the court, and holding that the public interest in allowing a receiver to carry out his duties outweighs the agency's interest in administrative finality).

II. GRANTING AN EXTENSION WOULD SERVE THE PUBLIC INTEREST, AND WOULD NOT IN ANY WAY IMPEDE THE MARKET FOR INVESTMENT IN LMS SPECTRUM.

If the brief extension requested by the Receiver is granted, the underlying spectrum would not be subject to “many more years” of not being used, as Inovonics alleges.⁷ Instead, granting a brief extension to Skybridge and Telesaurus would actually allow the spectrum to enter into service more quickly, a goal shared by the Alameda Court, the Receiver, and the Commission. The Receiver has been working diligently to enter transactions that will lead to the deployment of spectrum.⁸ While finding a suitable buyer can be a complicated process, the time it would take to find such a buyer would likely be much shorter than the time required to cancel the receivership licenses and re-auction the underlying spectrum through the Commission’s competitive bidding process.⁹ Finding a buyer will also be much less challenging if the Receiver is able to market larger, contiguous blocks of LMS spectrum – an undertaking that will not be possible if the Skybridge licenses, which generally cover a small sliver of spectrum carved out of the middle of an existing Telesaurus LMS license, are cancelled.¹⁰

⁷ *Comments of Inovonics Wireless Corp.*, WT Docket No. 16-385 (filed Nov. 29, 2016).

⁸ For example, the Receiver has already negotiated the sale of AMTS spectrum for positive train control to PTC-220, LLC; had the sale approved by the Court; filed applications with the FCC; and received FCC approval for the sale. *See* Letter from Roger S. Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, to Brian D. Weimer, counsel for Receiver, RE: Application File No. 0007464712, DA 16-1359 (Dec. 7, 2016). The Receiver has negotiated other transactions that are already approved by the Court and pending FCC approval. *See, e.g.*, File Nos. 0007470449, 0007570581, and 0007570572 (assignment and lease to Alstom Signaling Operation, LLC; assignment filed Nov. 21, 2016, lease filed Dec. 7, 2016); File No. 0007558146 (assignment to Portland General Electric Company, filed Nov. 23, 2016).

⁹ *See In re Amendment of Part 90 of the Commission’s Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, FCC 98-157, PR Docket No. 93-61 (rel. July 14, 1998) (setting up competitive bidding procedures for the LMS service).

¹⁰ For example, *compare* Call Sign WPOJ879, <http://wireless2.fcc.gov/UlsApp/UlsSearch/license.jsp?licKey=210498> (a Telesaurus license in the Washington-Baltimore area, covering the spectrum at 904.0-906.0 and 907.75-909.75 MHz)

Furthermore, granting the requested extension would not undermine the purpose of FCC regulations, as WISPA argues.¹¹ Granting the Receiver's request would not hold up LMS-spectrum services to any part of the country, promote the warehousing of spectrum, or discourage investment in LMS spectrum.¹² In fact, granting the extension would actually further the purposes of the underlying regulations by enabling immediate investment in spectrum that has lain dormant for years. The Receiver has no objection to the use of LMS spectrum by Part 15 devices, or to selling the Skybridge and Telesaurus licenses to such users.¹³

with Call Sign WQHU551, <http://wireless2.fcc.gov/UlsApp/UlsSearch/license.jsp?licKey=2958983> (a Skybridge license in the Washington-Baltimore area, carved out from WPOJ879, covering the spectrum at 906.0-907.75 and 927.75-928.0 MHz). The relevant Telesaurus licenses are not subject to the same concern about immediate cancellation because they do not have initial buildout or substantial service requirements. Those requirements were shifted to the Skybridge licenses when they were disaggregated from the original Telesaurus licenses. *See In re Requests by Skybridge Spectrum Foundation and Telesaurus Holdings GB, LLC for Waiver and Limited Extension of Time*, Order, DA 14-1257 (rel. Aug. 29, 2014).

¹¹ *Opposition of the Wireless Internet Service Providers Association*, WT Docket No. 16-385 (filed Nov. 30, 2016).

¹² *Id.*; see 47 U.S.C. §309(j)(4)(B).

¹³ In fact, to the extent that Part 15 users of LMS spectrum provide services that are vital to public safety, as alleged by Itron and Inovonics, the Receiver would be pleased to support such uses. Ms. Uecker has already received approval for several transactions similarly promoting public safety, in the form of sales of AMTS spectrum for positive train control. *See* note 8, *supra*.

IV. CONCLUSION

For the foregoing reasons, the undersigned respectfully requests that the Commission grant the Request for an Extension of Time to Construct.

Respectfully submitted,

SKYBRIDGE SPECTRUM FOUNDATION

TELESAURUS HOLDINGS

By: /s/ Susan Uecker
Susan Uecker, solely in her capacity as Receiver
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December 12, 2016